

EXHIBIT 160

**NOTICE TO ESRD FACILITY - ALTERNATIVE SANCTION
FOR FAILURE TO PARTICIPATE WITH NETWORK GOALS
AND OBJECTIVES**

(Date)

Facility Name
Address
City, State, ZIP Code

Dear _____:

RE: Provider Number (**Provider Number**)

To participate as a supplier of end stage renal disease (ESRD) services in the Medicare program, the (**name of facility**) must be in compliance with the conditions of coverage established by the Secretary of Health and Human Services. These conditions require that the facility participate in the goals and objectives of the ESRD network organization of its geographic area (42 CFR 405.2134). The ESRD network organization of your geographic area informs us that your facility is not in compliance with this requirement for the following reasons.

(List deficiencies and rationale for finding of noncompliance.)

Section 1881(c) of the Social Security Act authorizes us to impose sanctions, other than termination, against your facility as an alternative to termination from the Medicare program. These sanctions may be applied if your facility fails to comply with network goals and objectives and patient health and safety is not in jeopardy and the deficiency does not justify termination. Therefore, we are imposing the following sanction against your facility. We will **(deny payment for services furnished to patients first accepted for care after [insert effective date]; reduce payment for all ESRD services by 20 percent for each 30-day period after [insert effective date]; withhold all payments, without interest, for all ESRD services furnished after [insert effective date])** **(Choose one of the three sanctions. The effective date should be 45 days from the date of the letter.)**

This sanction shall remain in effect until we find that you are in substantial compliance with the requirement to participate in network activities and pursue network goals, or we terminate coverage for lack of compliance. You must demonstrate and document that the reason for the sanction has been eliminated. To remove the sanction, you must **(specify what is required for correction of the problem)**.

(Name)

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(Date)

If you disagree with this determination, you may request a reconsideration of this finding within 15 days from the receipt of this letter. If you request a reconsideration, we will provide an informal hearing by a CMS official who was not involved in making the decision to apply the sanction. During the hearing, you may be represented by counsel; have access to the information on which the allegation was based; and may present, orally or in writing, evidence and documentation to refute the finding of failure to participate in network activities and pursue network goals.

If the written decision of the informal hearing supports application of the alternative sanction, we will provide you and the public with written notice at least 30 days before the effective date of the sanction.

If you do not request a hearing, we will proceed with the (**specify sanction**), which will take effect on (**effective date of sanction**).

Sincerely yours,

Associate Regional Administrator
(or its equivalent)

cc:

ESRD Network Organization
Central Office